IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 151 OF 2005

IN

FAMILY COURT APPEAL NO. 91 OF 2005

Janardhan Harishchandra Katkar .. Appellant

V/s

Vinod Narayan Satpute & Anr. .. Respondents

Mrs.S.A. Dhamale for the Appellant.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 3RD OCTOBER 2005

P.C. :

1. Heard Mrs.Dhamale in support of this Application. The Respondents are present. We have had a word with them.

2. Civil Application seeks an appropriate interim arrangement for the custody and access to the Appellant's two children from his deceased wife. We had heard this matter in chamber from time to time. We had interviewed the children, the Appellant, the Respondents as also the Appellant's wife and his other relatives. We have already provided access to the Appellant while retaining custody of the two children with the

Respondents. Under the interim order presently governing this controversy, the Appellant is allowed to meet the two children on every Tuesday and Friday between 2.00 p.m. and 4.00 p.m. Presently meetings are taking place at the premises of a social institution, namely SWADHAR, at Goregaon (West). This arrangement however cannot be continued for all the time. We have discussed the issue with both the parties and, in our view, it would be better that the Respondents take the two children to the residence of the Appellant at Kanyakumari Society near Oshiwara Depo on these very days. After the access is over, the Appellant will bring back these two children to the residence of the Respondents.

3. The Appellant has opened a joint account with the 1st Respondent as directed by us earlier. The Appellant has been directed to deposit an amount of Rs.5,000/- every month in that account which the 1st Respondent is allowed to withdraw and to utilise it for the education, food, clothing, etc. of the two children. That order will continue until further orders are passed.

4. In our view, as of now, this order should govern as an interim arrangement. We dispose of this Civil

Application with this order while granting liberty to both the parties to move further appropriate Civil Application, if required, for change or modification in this arrangement.

5. Mrs.Dhamale asks for exclusive access and liberty to keep children with the Appellant father during half the period in Diwali, Christmas and Summer Vacations. As of now, we are not making any order for Diwali Vacation and, in our view, the above arrangement should continue even during Diwali Vacation. This is because it is desirable that the children get adjusted with the Appellant and his wife. It will however be open to the Appellant to take out a Civil Application at least two weeks before the Christmas Vacation in case he is desirous of taking the children for access exclusively for half the period of Christmas Vacation. Depending upon the outcome of the Civil Application, appropriate orders could be later on passed with respect to the Summer Vacation.

6. The Appellant says that the children will be well looked after in the Appellant’s house which is in the name of his wife Preeti Katkar. He states that he has been contributing for the monthly maintenance of his residence which is not less than Rs.5,000/-. He further

states that he deposits and shall continue to deposit Rs.5,000/- every month in the account of his wife beginning with this month. That account will be credited with Rs.5,000/- by 10th October and by 10th of each month.

7. In the event of any breach, it will be open to either of the parties and even to Appellant's wife Preeti Katkar to move appropriate Civil Application. Civil Application stands disposed of.

8. Authenticated copy of this order be made available to the parties.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)